1. **Associate Company**

- A company can be said to be an Associate of another company, if such another company has a significant influence over first mentioned Company.
- Significant influence means Control of at least 20% of total voting power; or Control of or participation in Business decisions under an agreement.
- Shares held in a fiduciary capacity shall not be counted.
- Associate Co includes a joint venture Company. But Does not include subsidiary company.
- Joint Venture means an agreement in which the parties have Joint control of the arrangement and Joint rights to the net assets of the arrangement.

2. **Key Managerial Person -** In relation to a company, key managerial person means:

- Chief executive officer or the Managing Director or Manager;
- Company Secretary; c. Whole-time director; Chief financial officer; and
- An officer one level below the whole-time directors. Such officer can be treated as key managerial person, if he is specifically designated as KMP by the Board of directors.

3. **Officer in Default**

- Whole-time director; - Key Managerial Personnel
- Any person having responsibility for maintaining the records. Such person can be considered as OID, if he participates in any default or knowingly permits any default.
- Any person who is advising, instructing or directing the BoD. However, if a professional is advising the Board of directors, he cannot be considered as officer in default.
- Any director who participates in the BM's but does not objected to the contravention
- Share transfer agents and merchant bankers can be considered as officer in default, if any default happened with respect to the issue and transfer of any shares.

4. **Promoter -** Promoter means a person:

- Whose name is mentioned as promoter in the prospectus or in the annual return.
- Who has control over the affairs of the Co as a shareholder, director or otherwise.
- Who is advising, directing or instructing the Board of directors. However, if a professional is advising the Board of directors, he cannot be considered as promoter.
- **Public Financial Institution** means LIC - Infrastructure Development Finance Company Limited - Institutions notified by the central government u/s 4A of the CA, 1956.Such other institution as may be notified by CG.
- An institution can be notified as Public Financial Institution, if Such institution has been established under any central or state Act other than CA, 2013 or previous Company Law; or
- CG or SG holds or controls at least 51% of the paid-up share capital of such institution.

5. **PQ on Deemed Public Co – Example in Study Material Page No. 1.16**

- As per proviso to Sec.2(71), a Pvt Co, which is subsidiary of a public co, is deemed to be a public co for CA,2013, even though such co is a private co as per its AoA.
- In the given case, A Private Limited is a subsidiary of AB Ltd, which is a public company.
- Therefore, by applying Sec.2(71), A Pvt Ltd is deemed to be a Public Co for of CA, 2013.
- Accordingly, A Private Limted cannot avail the exemptions granted to Private Company.

6. **DOCTRINE OF ULTRA-VIRES AND STATE ITS IMPLICATIONS.**

- If a Co does anything not covered under MoA, then the DUV comes into play.
- An ultra-vires contract is viod-ab-initio.
- Such contract cannot be enforced by the company or by the other party
- Ultra-vires contract cannot be ratified, even if every member agrees to it.

- If a transaction is intra-vires the Co (i.e., covered under MoA) but ultra-vires the AoA (i.e., not covered under AoA), then the company can alter the AoA to validate such transaction.
- If a transaction is intra-vires the co but beyond the powers of directors, it can be ratified.
- It protects the shareholders and creditors of the co and restrains the activities of directors.
- It prevents the co from taking the benefits from profitable transactions.
- As Sec.13 permits for alteration of objects by passing a SR, the purpose of DuV is defeated.

7. Doctrine of Indoor Management (DIM) and state its exceptions.

- According to this doctrine, persons dealing with the Co in good faith need not enquire whether the company has complied with the internal procedures relating to a contract.
- Persons dealing with the company shall ensure that a contract is in accordance with the Memorandum and articles. Once they have satisfied in this regard, they can assume that internal procedures relating to the contract have been complied with.
- Internal procedures are not a matter of public knowledge. Therefore, the persons dealing with the company are not aware of compliance with such procedures and as such they can only presume that such internal procedures have been complied with.
- In the absence of this doctrine, company can deny its liability to creditors by contending that the officers of the company do not have authority to act on behalf of the company.

<u>Exceptions to DIM/Applicability of Doctrine of Constructive Notice</u> –

- When the persons dealing with the company has knowledge of irregularity, the benefit under DIM is not available and such person will be considered part of the irregularity.
- Where the circumstances surrounding the contract are suspicious and therefore prompt inquiry and the person dealing with the company has not made an inquiry which would have discovered irregularity, then the protection of the DIM cannot be availed.
- The DIM does not operate in favor of a person who has relied on forged documents. This is because; a Company can never be bound by forgeries committed by its officers.

<u>Doctrine of Constructive Notice (DCN) vs. Doctrine of Indoor Management</u>

- DCN protects a Co against outsiders, whereas DIM protects outsiders against the Co.
- DIM is a safeguard against the possibility of abusing the DCN.

8. Shifting of RO from one RoC to another RoC - Attachments to Application for RD.

- i. Board Resolution and Special Resolution.
- ii. Declaration by Key Managerial Personnel or by 2 directors, confirming that the co has not defaulted in payment of dues to its workmen and has obtained the consent of creditors and made a provision with respect to creditors not consented for shifting of registered office
- iii. A declaration that the co will not ask for change in jurisdiction with respect to pending cases.
- iv. An Acknowledged copy of intimation given to the chief secretary of the state containing that the Proposal of the company to shift its registered office; and a statement that employees' interest is not adversely affected due to shifting of registered office.

9. Subsidiary Co not to become a member of Holding Company (Sec.19)

- A subsidiary company shall not hold any shares in its holding company.
- A holding company shall not allot or transfer any of its shares to its subsidiary company.
- If the holding company does not have share capital, then the reference to shares shall be construed as reference to any other interest of its members.
- A subsidiary company can hold shares in its holding company in the following cases:
- As a legal representative of deceased member of the holding company; As a trustee; or
- If the shares are purchased before becoming its subsidiary.
- A subsidiary co shall have voting rights at the meetings of holding company only in respect of shares held as legal representative or as a trustee.

10. PQ on minor becoming a subscriber – Q-1 in SM page No2.38.

- As per Sec.3 (1) of the CA, 2013, a public company can be formed with 7or more persons.
- As per Sec.7 (1), Memorandum & articles of a Co shall be duly signed by all the subscribers.
- In Palaniappa vs Official Liquidator, it has been held that "A minor cannot be a signatory to the MoA & AoA since he is not competent to contract and the guardian who subscribes to MoA on behalf of the minor will be deemed to have subscribed in his personal capacity".
- In the given case a person signed as guardian for 5 minor members.
- By applying the above judgment to the given case, it can be construed that guardian has signed the memorandum in his personal capacity. Accordingly, it can be construed that memorandum has been signed by only 3 members (2 adult members and 1 Guardian)
- The court may uphold the contentions that there are no 7 subscribers and as such requirements with respect to registration as laid down in Sec.3 and Sec.7 has not been complied with.

11. PQ on Change of Name – Q-2 in SM page No2.38.

- Previous approval of CG has to be obtained, as required by Rule-8(6).
- As per the Circular No.2/2014, the word 'National' shall be allowed only to a Government Company in which the Central/State Government has a stake.
- A SR shall be passed for altering the Memorandum & Articles as required by Sec.13& 14.
- An application in INC-24 shall be filed with RoC to obtain the approval for name change.
- The registrar shall enter the new name and issue a fresh certificate of Incorporation.
- The change of name shall be complete and effective upon issue of fresh certificate.
- Alteration of Memorandum and Articles shall be noted in every copy.
- The change of name shall not affect any rights or obligations and all legal proceedings by or against the company shall not become defective as it does not affect the existence of the co.

12. PQ on increase of members liability – Q-4 in SM page No.2.40

- Sec.13 (1) provides that MoA can be altered by passing a SR and after complying with the procedure given in that section. Since no additional procedure is prescribed for liability clause, we can infer that liability clause can be altered by simply passing a SR without any additional procedure.
- In Greenhalgh vs. Anderne Cinemas case it has been held that when a person comes as a member, he is not entitled to assume that the MoA and AoA remains constant. Therefore, the alteration of liability clause by RSP Limited is valid.

13. PQ on MoA & AoA not binding on outsiders – Q-5 in SM Page No 2.40

- Sec.5 states that the Articles of a Co contain regulations for the management of a company.
- Sec.10(1) provides that Memorandum and Articles are binding upon Co and its members.
- In the case of Ramkumar Potdar vs Sholapur Spinning & Weavings Co Ltd, it has been held that " the memorandum and articles do not constitute a contract between the company and a third party though such third party's name is referred in the Articles of Association.
- Sec.14 of the CA, 2013 gives power to the company to alter its articles of association.
- In the given case, Articles conferred a right on 'X' the law officer that he shall not be removed except on the ground of proved misconduct.
- In view of the legal position explained above, 'X' cannot enforce the right conferred on him by the articles against the company

14. RED-HERRING PROSPECTUS [Sec.32]

- A Co proposing to make an offer of securities may issue RHP before issue of prospectus.
- The process of raising money through issue of RHP is referred to as Book-Building Process.
- RHP means a prospectus which does not include particulars of quantum/price of securities.
- RHP contains floor price or a price band within which the bids can move.

- RHP shall be filed with RoC at least 3 days before the opening of the subscription list.
- All rules and regulations applicable to the prospectus also apply to RHP.
- Upon the closing of the offer, a complete prospectus, including total capital raised and closing price, shall be filed with RoC. Any variation between the RHP and the final prospectus shall be highlighted as variations in the prospectus.

15. Document containing offer for sale to be deemed prospectus

- When a company Allots securities to a person (say Issue House), with an intention to sell such securities to the public then any document issued by such Issue House, to the public, for sale of securities, shall be deemed to be a prospectus issued by the Company if:
- Offer for sale to the public was made within 6 months of Allotment; or
- Whole consideration is not received by the Co, as on the date of offer to the public.
- All provisions applicable to prospectus, such as contents of prospectus and liability for mis-statement in prospectus, shall be applicable to such Deemed Prospectus.
- Deemed Prospectus shall contain all the matters specified u/s 26. In addition to that, deemed prospectus shall also specify the Net amount of consideration received or to be received by the company; and The time and place, where any interested person can inspect the contract between Issue House and Co.
- The persons of Issue House, whose names are mentioned in such Deemed Prospectus, shall be treated as directors of the Company.
- If the Issue House is a company, then such Deemed Prospectus shall be signed by 2 directors of such Company; If the Issue House is a firm, then such deemed prospectus shall be signed by at least ½ of the partners of Issue House.

16. Variation in objects for which prospectus is issued

- At any time, if a company wants to change the Objects for which the company raised money through prospectus; or Terms of any contract referred to in the prospectus, then Co shall pass a SR.
- As per Rule-7, such special resolution shall be passed through postal ballot.
- The details of notice for such resolution shall be published in 2 newspapers in Form.No.PAS-1.
- Advertisement shall be published simultaneously with the dispatch of postal ballot notices
- The notice shall also be placed on the web-site of the company, if any.
- Money raised through prospectus shall not be utilized for buying equity shares of other listed co.
- An exit offer shall be given to Dissenting shareholders by promoters or controlling shareholders.

17. Abridged Prospectus

- As per Sec.33 (1) every application issued to the public, inviting subscription for securities, shall be accompanied by an abridged prospectus.
- As per Sec.2(1) Abridged Prospectus means a memorandum containing such salient features of a prospectus as may be specified by SEBI.
- If the application form was issued in connection with an invitation to a person to enter into an underwriting agreement or If the application form was issued in relation to securities which are not offered to the public, abridged prospectus is not necessary.
- A copy of the complete prospectus shall be given to any person who made a request.

18. PQ on Mis-statement in prospectus – Q-2 in SM page no 3.35

- As per Sec.35, a person who subscribed securities of a co on the basis of prospectus can claim compensation for any loss or damage incurred by him due to subscription of such securities.
- In the case of Peek vs Gurney, it has been held that, a person who purchased the shares in the open market cannot be said to have bought such shares on the basis of prospectus.
- In the given case, though Mr. X has received a copy of the prospectus, he has not purchased the shares from the Co. He purchased the shares through the stock exchange.

- Therefore, by applying the above judgment, Mr. X cannot be said to have purchased the shares on the basis of prospectus. Accordingly, Mr. X's claim for damages is not justified, because damages can be claimed u/s 35, only by a person who purchased the shares on the basis of prospectus.

19. Irregular Allotment

1. Where a company does not issue a prospectus in a public issue as required by Sec-23; o
2. Where the prospectus issued by the company does not include matters as per 26 (1) ; or
3. Where the prospectus has not been filed with the Registrar for registration u/s 26 (4);
4. The minimum subscription has not been received in terms of section 39; or
5. The minimum amount receivable on application is less than the amount prescribed by SEBI;
6. Approval for listing has not been obtained from one or more of the RSE's u/s 40.

<u>Effects of Irregular Allotment</u>

a. If a prospectus is issued in violation of the provisions of section 26, The company shall be punishable with fine ranging from ₹ 50,000 to ₹ 3 Lacks and Every person who is knowingly a party to the issue of such prospectus shall be punishable with imprisonment up to 3 years or with fine ranging from ₹ 50,000 to ₹ 3 Lacks, or with both.

b. In case the co has not received the minimum subscription amount within the time specified by SEBI, it must refund the application money received by it within the stipulated time.

c. If a default is made in getting the listing approval from RSE's as required u/s 40:

    i. The Co shall be punishable with fine ranging from ₹ 5,00,000 to ₹ 50 Lacks;

    i. Every officer of the Co, who is in default, shall be punishable with imprisonment up to 1 year or with fine ranging from ₹ 50,000 to ₹ 3 Lacks, or with both.

20. VARIATION OF SHAREHOLDER'S RIGHTS [Sec.48]

- Where a share capital of the company is divided into different classes of shares, the rights attached to the shares of any class (i.e., class rights) may be varied.
- Class rights can be varied With the consent of members holding not less than 3/4th of the issued shares of that class; or By passing a Special Resolution at a separate meeting of the holders of the issued shares of that class
- For variation of class rights, there must be a provision in the memorandum permitting such variation; or Such variation is not prohibited by terms of issue of such shares.
- Dissenting shareholders holding not less than 10% of the issued shares of that class, may make an application to tribunal seeking cancellation of such variation.
- Such application shall be made within 21 days of the Consent given by shareholders;
- Variation shall not have effect until it is confirmed by Tribunal.
- Decision of the Tribunal, shall be binding on all the shareholders.

21. ISSUE OF SWEAT EQUITY SHARES (Sec.54)

- If the equity shares of the Co are listed on a recognized stock exchange, the sweat equity shares shall be issued in accordance with the regulations made by SEBI.
- If the equity shares of the Co are not listed, then the sweat equity shares shall be issued in accordance with Rule-8 of Companies (Share Capital and Debentures) Rules, 2014.
- Sweat equity shares are equity shares issued by a company to its directors or employees for cash or for consideration other than cash if the directors or employees provide intellectual property rights or value additions to the company.
- Sweat equity shares must be of a class of shares already issued.
- The issue of SES must be authorized by Special Resolution passed by the Company.
- Rights, limitations and restrictions applicable to equity shares shall be applicable to SES.
- Persons holding sweat equity shares shall rank pari-passu with other equity shareholders

22. Manner of issue of debentures

- Issue of debentures with an option to convert shall be approved by Special Resolution.

- Debentures carrying voting rights shall not be issued.
- Secured debentures may be issued by complying with Rule-18
- DEE shall be created out of profits available for payment of dividend and shall be utilized only for redemption of debentures.
- Debenture trustee shall be appointed if The Co issues prospectus or makes an offer or invitation to the public; or The Co makes an offer or invitation to members exceeding 500.
- A debenture trustee shall take steps to protect the interests of the debenture-holders.
- When the assets of the Co are insufficient to pay the principal amount of debentures, the Debenture trustee may file a petition to the tribunal. After hearing the parties, the Tribunal may impose restrict the Co from incurring further liabilities.
- Any provision in the Debenture Trust Deed which exempts the liability of trustee for breach of trust shall be void. The liability of trustee may be exempted upon the consent of majority of debenture-holders holding not less than 3/4ths in value.
- Where a Co fails to redeem the debentures or fails to pay the interest, on the due date, then a petition may be filed before the tribunal. After hearing the parties, the Tribunal may order the Co to immediately redeem the debentures along with the interest.

23. Acceptance of deposits from Members [Sec. 73(2)]

- A Company may accept deposits from members by Passing a resolution in the general meeting; and complying with the prescribed rules.
- The terms and conditions of deposits (e.g., whether secured or unsecured, rate of interest, terms of redemption) shall be agreed upon between the company and the members.
- A circular shall be issued to members and shall be filed with Roc within 30 days.
- Deposit Repayment Reserve to be created, on or before the 30th April of each year, to the extent of 20% of the deposits maturing during the following Financial Year.
- The Company has to certify that it has not defaulted in repayment of deposits or interest on such deposits accepted earlier. If the Company has defaulted, then the Co shall certify that it 5 years had been completed from the date of rectifying such default.
- If the deposits are secured deposits, a charge shall be created on the assets of the co.
- Where a company fails to repay the deposit or part thereof or any interest thereon, the depositor concerned may apply to the Tribunal for an order directing the company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment.

24. Acceptance of Deposits from Public.

- A public company, having a net worth of not less than ₹ 100 Crores or a turnover of not less than ₹ 500 Crores, may accept deposits from persons other than its members by complying with The conditions specified in Sec.73(2) and The rules framed by CG.
- Such Co shall obtain a Credit rating every year during the tenure of deposits. Such rating shall be informed to the public at the time of invitation of deposits. Such rating ensures adequate safety to depositors.
- Co accepting secured deposits shall create a charge on the assets, within 30 days.
- Provisions of Chapter-V shall apply to acceptance of deposits from public.
- Prohibition u/s 73 (1) that a company shall not accept deposits from public except in a manner prescribed in Chapter-V, shall not apply to a banking company, Non-Banking Financial Company and a Housing Finance Company.

25. PQ on Notice through electronic mode – SM page no 7.18

- As per Rule 18(3)(iv), when notice is sent by e-mail, the co should use a system which produces confirmation of the total number of recipients e-mailed and a record of each recipient to whom the notice has been sent. Record of any failed transmissions and subsequent re-sending shall be retained by or on behalf of the company as "proof of sending".

- As per Rule 18(3)(v) , the company's obligation shall be satisfied when it transmits the e-mail and the company shall not be held responsible for a failure in transmission beyond its control.
- As per Rule 18(3)(vi), if a member entitled to receive the notice fails to provide or update relevant e-mail address to the company, or to the depository participant as the case may be, the company shall not be in default for not delivering notice via e-mail.
- In the given case, the company proved that it had sent the notice by way of e-mail to Mr.Abeer. Therefore by applying the above provisions, it can be held that the co is not guilty for contravening the provisions of Sec.101.

26. PQ on Quorum to be present throught the meeting – SM page no. 7.23

- As per Sec.103(1)(a)(ii), unless the articles of the co otherwise provide, 15 members personally present shall be the quorum of a public co having members more than 1000 but up to 5000.
- Regulation-44 of Table-F provides that quorum to be present at the time when the meeting proceeds to do business.
- Further para 3.1 of SS-2, provides that Quorum shall be present throughout the meeting. Quorum shall be present not only at the time of commencement of meeting but also while transacting business.
- In the given case, the company is a public company having number of members 2300. Therefore, the required quorum is 15.
- Though the required quorum is present at the commencement of meeting (as 18 members were present), 5 members left the meeting after discussing the Agenda 1 to 3. Accordingly only 13 members were present at the time of discussing Agenda 4 & 5. Therefore, the meeting is not properly convened as per the provisions of Sec.103 of the Companies Act, 2013.

27. PQ on declaration of beneficial interest – SM Page 7.10

- Sec.89 provides that where a member does not hold the beneficial interest in shares, he shall make a declaration to the company specifying the name and other particulars of person who holds the beneficial interest in such shares.
- Where the shares are gifted away, they become the property of the donee. There is no beneficial interest left to the Donor. Hence, the provisions relating to declaration of beneficial interest are not applicable.
- In the given case, when Ms. Emma gifted shares to Cathy, shares become the property of Cathy and Ms.Emma does not have any beneficial interest in the shares.
- Therefore the provisions relating to beneficial interest shall not apply to the given case.
- The above views are up held in the case of Khajamiya Miransaheb Mujahid vs Peerapasha Miransaheb Mujahid.

28. PQ on distribution of dividend – Q-2 in SM page no 8.19

<u>Director's Violation of the Act</u>

- As per Sec.123 (4), dividend amount shall be deposited in a separate A/c within 5 days of declaration .
- As per Sec.124(1), if the declared dividend is not paid or claimed within 30 days, then such amount shall be transferred to Unpaid Dividend Account within 7 days of the expiry of 30 days.
- As per Sec.127, declared dividend shall be paid within 30 days.
- In the given case, directors of XYZ Limited diverted the dividend amount for purchase of investments. Therefore, they have committed the above violations.

<u>Consequences of Violation</u>

- As per Sec.124(7), Every officer of the co who is in default shall be punishable with fine up to ₹ 5 lakh.
- As per Sec.127, every Director of the co who is knowingly a party to the default, be punishable with Imprisonment up to 2 years and Fine of ₹ 1,000 for every day during which such default continues.

<u>Adjustment of dividend amount against dues from shareholder</u>

As per Proviso (d) to Sec.127, no offence shall be deemed to have been committed if the dividend amount is lawfully adjusted by the company against any amount due to the company from the shareholder.

29. PQ on Exceptions from punishment for failure to declare dividend – Q-4 in SM page No.8.21

Dividend to Sheela

- As per Sec.127, company and directors are punishable if the company fails to pay the dividend within 30 days of declaration.
- Proviso (b) to Sec.127, provides that no offence shall be deemed to have been committed, if the:

a. shareholder has given directions to the company regarding the payment of the dividend and

b. Those directions cannot be complied with and

c. The inability to comply with shareholder directions has been communicated to shareholder.

- In the given case, the company has failed to communicate to the shareholder Mrs. Sheela about non-compliance of her direction regarding payment of dividend. Hence, the penal provisions under section 127 will be applicable.

Dividend to Mohan

- Proviso (a) to Sec.127 provides that no offence shall be deemed to have been committed, if the dividend could not be paid by reason of the operation of law.
- Proviso (c) to Sec.127 provides that no offence shall be deemed to have been committed, if the dividend could not be paid due to the existence of dispute regarding the right to receive the dividend.
- In the given case, the dividend could not be paid because it was not allowed to be paid by the court until the matter was resolved about succession. Hence, there will not be any liability on the company and its Directors.

30. Exemption from preparation of CFS - A Co is not required to present CFS, if:

a. The securities of the company are not listed and not in the process of listing.

b. The company is a subsidiary of another company;

c. All members of the co do not object for not presenting the consolidated financial statements.

d. Its ultimate or any intermediate holding company files consolidated financial statements with the Registrar which is in compliance with the applicable Accounting Standards.

31. Re-opening of Accounts [Sec.130]

- The CG, Income-tax authorities, SEBI, any other statutory authority or any person concerned, may make an application to Court or Tribunal, if The accounts of a Co were prepared in a fraudulent manner; or The affairs of the co were mismanaged casting a doubt on the reliability of FS.
- The C/T shall give notice to CG and other said authorities and shall consider the representations made by them and may make an order to re-open the books of accounts or recast the FS of a co.
- BoA relating to period earlier than 8 years shall not be re-opened. However, if a CG has issued any direction under the proviso to Sec.128 (5), the BoA may be reopened for longer period.
- The Accounts revised or recasted shall be final.

32. Voluntary revision of Financial Statements [Sec.131]

- If the Financial Statements do not comply with Sec.129 or Board's report do not comply with Sec.134, the Board of Directors may make an application to Tribunal.
- The Tribunal shall give notice to Central Government and the Income-Tax Authorities, and shall take into consideration the representations made by them.
- The Tribunal may make an order for revising Financial Statements or Board's report in respect of any of the 3 preceding financial years.
- Copy of the Tribunal's order shall be filed with the Registrar.
- Financial Statement or Board's report shall not be revised more than once in a year.
- Reasons for revision shall be disclosed in the Board's report of the FY in which revision is made.

33. PQ on Inspection of Books of Accounts by Member

- According to Sec.128 (3), the books of account and other books and papers maintained by the company within India shall be open for inspection by any Director during business hours.

- As per Regulation 89 of Table-F, a member may inspect the books of accounts if:
  a. The power of inspection is conferred by any law;
  b. Inspection is authorized by Board or by the Company in General Meeting
- Further as per Sec.206, the Registrar, any officer of Central Government, any officer of SEBI may inspect the books of accounts of a Company.
- In the given case, Mr. Bhagvath is a member of a Company. Therefore he is not covered u/s 128(3) and 206. Accordingly inspection of books requires authorization from the Company as per Regulation-89 of Table-F. But in the given case, the Company has rejected permission to Mr. Bhagvath to examine the books of Accounts. Therefore, Mr. Bhagvath is not eligible to carry out the inspection.

34. PQ on Authentication of Financial Statements – Q-4 in SM page No.9.44

- As per section 134 (1), the financial statements of the Co shall be signed by the:

a. Chairperson of the company where he is authorized by the Board (or) 2 directors out of which 1 shall be managing director; and

b. CEO, the CFO; and the company secretary of the company, wherever they are appointed.

- In the given case, the Company has a Managing Director and CS. Therefore, as per Sec.134 (1), the financial statements are required to be signed by 1 Director, Managing Director and Company Secretary. But in the given case, the Financial Statements have been signed only by 2 directors; they have not been signed by Managing Director and Company Secretary.
- Therefore, authentication of financial statements of Vishwakarma Electronics Limited/ ABC Limited was not in accordance with the provisions of Companies Act, 2013

35. Right of Member to Copies of Audited Financial Statement [Sec.136]

1. A copy of FS, including Consolidated Financial Statements, and audit report, shall be sent to Every member; Every Debenture Trustee; and Other persons entitled for such documents [e.g., directors, auditors]
2. In case of Nidhi Co,
   A. the above documents shall be sent to members holding more than 1% of total paid-up share capital; or Rs.1000 capital, Whichever is less.
   B. For the benefit of other members:
   i. A notice shall be published in newspaper. Such notice shall specify the date, time and venue of Annual General Meeting; and
   ii. FS and its enclosures shall be affixed in the Notice Board of the Company
3. A Listed co may send if a statement containing salient features of the above documents is sent.
4. A company shall allow every member or debenture trustee, to inspect the above documents at its registered office during business hours.
5. The above documents shall be sent at least 21 days before the date of meeting. In case of Sec.8 Co, at least 14 days before the date of meeting.
6. If the above documents are sent less than 21/14 days, then the consent has to be obtained from majority of the members having voting rights and holding at least 95% of the paid-up share capital.
7. In case of all Listed companies and public companies having net worth of more than ₹ 1 Crore and Turnover of more than ₹ 10 Crores, the FS may be sent:
   a. By electronic mode To members holding shares in dematerialized format and To members holding shares in physical format and consented for sending documents through electronic mode.
   b. Through any of the modes prescribed u/s 20, in all other cases.
8. A Listed Co shall place the following documents in its web site:
   a. The financial statements of such Co.
   b. Consolidated financial statements.
   c. Separate audited statements in respect of each of its subsidiary.
9. A company shall allow every member or debenture trustee, to inspect the above documents at its registered office during business hours.